# STATE OF ILLINOIS HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	
FRED HOLLINGWORTH, )	
Complainant, ) and ) GALENA UNIT SCHOOL DISTRICT 120, ) Respondent. )	CHARGE NO(S): 2009CN1061 EEOC NO(S): 440-2008-06566 ALS NO(S): 10-0417
NOT	ICE
You are hereby notified that the Illinois Hunexceptions to the Recommended Order and Decoursuant to Section 8A-103(A) and/or 8B-103(A) 5300.910 of the Commission's Procedural Rules, to become the Order and Decision of the Commission.	of the Illinois Human Rights Act and Section hat Recommended Order and Decision has now
STATE OF ILLINOIS ) HUMAN RIGHTS COMMISSION )	Entered this 1 <sup>st</sup> day of April 2011
	N. KEITH CHAMBERS EXECUTIVE DIRECTOR

### STATE OF ILLINOIS HUMAN RIGHTS COMMISSION

IN THE MATTER OF:		
FRED HOLLINGWORTH,		
Complainant, )	Chargo No.	20000014064
and )	_	2009CN1061 440-2008-06566 10-0417
GALENA UNIT SCHOOL DISTRICT 120,	ALS NO	10-0417
Respondent. )		

## RECOMMENDED ORDER AND DECISION

On June 3, 2010, Complainant, Fred Hollingworth, filed a complaint on his own behalf against Respondent, Galena Unit School District 120. That complaint alleged that Respondent discriminated against Complainant on the basis of his age when it discharged him.

This matter now comes on to be heard on Complainant's Motion for Leave to Voluntarily Dismiss Complaint. Respondent responded to said motion with its own Motion to Dismiss. The matter is ready for decision.

#### **FINDINGS OF FACT**

The following facts were derived from the record file in this matter.

- 1. Complainant filed the complaint in this matter on his own behalf on June 3, 2010.
- 2. The "window" period for Complainant to file his own complaint was not open when the complaint in this matter was filed.
- 3. The parties agree that Complainant's actual "window" for filing will not open until August of 2010.

#### **CONCLUSIONS OF LAW**

1. The Illinois Department of Human Rights (IDHR) has a statutory period in which to conduct investigations of discrimination charges.

- 2. If the IDHR fails to make a timely determination on the merits of his charge, a complainant can file a complaint on his own behalf with the Illinois Human Rights Commission. The complainant cannot file that complaint until the expiration of the IDHR's investigation period.
- The complaint in this matter was filed before the expiration of the IDHR's investigation period.
  - 4. The investigation period continues to run.
  - 5. The complaint in this matter must be dismissed without prejudice.

#### DISCUSSION

Complainant, Fred Hollingworth, filed the complaint in this matter on his own behalf.

That complaint, however, was not filed within the appropriate time frame.

The Illinois Department of Human Rights (IDHR) has a statutory period within which to conduct investigations of discrimination charges. If the IDHR fails to make a timely determination on the merits of his charge, a complainant can file a complaint on his own behalf with the Illinois Human Rights Commission. The complainant, though, cannot file that complaint until the expiration of the IDHR's investigation period. See 775 ILCS 7A-102(G).

Complainant in this case failed to file his complaint within the "window" of time for filing such complaints. In fact, the parties now agree that Complainant's window will not open until sometime in August of 2010. Accordingly, Complainant has moved to dismiss his own complaint.

The IDHR has yet to make a determination on the merits of Complainant's charge of discrimination. The statutory investigation period continues to run. On these facts, it is appropriate to dismiss the complaint without prejudice and allow the IDHR to continue its investigation.

## **RECOMMENDATION**

Based upon the foregoing, it is recommended that the complaint in this matter be dismissed without prejudice so that the IDHR investigation of the underlying charge can continue.

**HUMAN RIGHTS COMMISSION** 

BY	:				

MICHAEL J. EVANS CHIEF ADMINISTRATIVE LAW JUDGE ADMINISTRATIVE LAW SECTION

ENTERED: July 16, 2010